

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

April 13, 2005

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. **Public Outreach/Conference – 15th Annual West Coast Conferences on Soils, Sediments and Water** *(Brian McDaniel and John Odermatt) (Attachment A-1)*

On March 16, 2005, the Regional Board staff from the Land Discharge and Tanks Site Mitigation and Cleanup Units attended the Association of Environmental Health and Sciences (AEHS) 15th Annual West Coast Conference on Soils, Sediments and Water at the Mission Valley Marriott. The AEHS web site can be found at: www.aehs.com. Participants at the AEHS conference included consultants, dischargers, and regulatory agency staff. Brian McDaniel (Regional Board Land Discharge Unit), County of San Diego staff and Geosyntec Consultants co-authored a paper entitled “Remediation of Chlorinated VOCs in Fractured Bedrock through In-Situ Bioaugmentation” (see attachment A-1). The result of the pilot study was of particular interest to the conference audience, because the participants commonly work on similar groundwater cleanup projects nationwide. The *Dehalococcoides* group of bacteria, naturally present at this site, has been shown to be efficient at degrading volatile organic constituents (VOCs). The pilot study is utilizing existing the bacteria group enhanced with a nutrient culture in order to provide for increased degradation of VOCs.

The presentation described a pilot study being performed by the County of San Diego and Geosyntec Consultants utilizing biologic microorganisms in support of enhancing VOC remediation at the inactive Jamacha Landfill. The pilot study is being conducted downgradient of the landfill adjacent to the Sweetwater River.

2. **Sweetwater Authority/South Bay Irrigation District Presentation** *(Brian McDaniel and John Odermatt) (Attachment A-2)*

On March 21, 2005, Regional Board staff of the Land Discharge Unit (Brian McDaniel) presented an overview of the Regional Board's Land Discharge Program to the Sweetwater Authority/South Bay Irrigation District. The Authority provides water service to National City, Bonita and the western and central portions of Chula Vista, California. The Authority owns and operates the Loveland Reservoir, Sweetwater Reservoir, a brackish groundwater desalination facility and deep freshwater wells within the Sweetwater River Watershed. The Sweetwater Authority is a publicly owned water agency with policies and procedures established by a seven-member Board of Directors (see attachment A-2).

The Authority expressed an interest in the Land Discharge Program because the inactive Jamacha Landfill is located adjacent to the Sweetwater River and upgradient from the Sweetwater Reservoir. The Regional Board regulates the Jamacha Landfill under Order

No. 94-164 (WDRs) and Cleanup and Abatement Order No. 99-42. Cleanup and Abatement Order No. 99-42 was issued in response to the discharge of waste from the landfill and the condition of pollution in groundwater located beneath the Landfill. Order No. 99-42 contains directives for further evaluation and corrective action programs for cleanup of groundwater pollution located at and adjacent to the facility. The pilot program was initiated to assess the potential of the technology to restore water quality at the site.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) *(Charles Cheng, David Hanson, Bryan Ott, Victor Vasquez)* *(Attachment B-1)*

From March 1 to March 31, 2005, there were 15 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 7 of these spills reached surface waters or storm drains of which one resulted in closure of recreational waters. Of the total number of overflows from public systems, three were 1,000 gallons or more. The combined total volume of reported sewage spilled from all publicly owned collection systems for the month of March 2005 was 54,837 gallons.

There were also 15 sewage overflows from private property reported in March 2005. Five reached surface waters or storm drains. None resulted in closure of recreational waters. Of the total number of overflows from private property, none were 1,000 gallons or more.

The total rainfall amount for March 2005 recorded at San Diego Lindbergh Field was 2.12 inches. For comparison, in February 2005, 5.83 inches of rainfall were recorded at San Diego's Lindbergh Field, and 28 public SSOs were reported. Also for comparison, in March 2004, 0.22 inches of rainfall were recorded at San Diego's Lindbergh Field and 19 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through March 31, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed could be easily misinterpreted for a sewer agency that has a small system size but experiences a spill of a few hundred gallons or more. The converse is also true for a sewer agency that has a large system. Hence, these numbers by themselves are not sufficiently representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

For additional information on SSO's in FY 2003-2004 see the table entitled "Public SSO Statistics Summary for FY 2003-2004 (July 1-June 30)" attached to the October 2004

Executive Officer's Report (also available on the Regional Board's website www.swrcb.ca.gov/rwqcb9). Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's website at <http://www.swrcb.ca.gov/rwqcb9/programs/sso.html>.

Issuance of Notices of Violation (NOV)

Notices of Violation (NOV) were issued during March 2005 for recent significant SSOs. The NOV's were issued to the sewer agencies and for the SSO events described below:

City of Escondido

NOV No. R9-2005-0102

The City of Escondido (City) notified this office on January 20, 2005 of a sanitary sewer overflow (SSO) of approximately 440 gallons that occurred on the same day at 1366 W. Valley Parkway. The cause of the spill, which flowed out from Manhole No. 5121, was attributed to debris. City crews were reportedly able to recover 120 gallons of the overflow. The remaining 320 gallons entered a storm drain that drains to Escondido Creek, a tributary San Elijo Lagoon, which drains to the Pacific Ocean. The County of San Diego Department of Environmental Health was notified of the spill but did not require posting of any signs warning of sewage-contaminated water.

City of Escondido

NOV No. R9-2005-0106

The City of Escondido (City) notified this office on February 22, 2005 of a sanitary sewer overflow (SSO) of approximately 11,250 gallons that occurred on February 21, 2005 on Metcalf Street near Mission Avenue. The cause of the spill, which flowed out of Manhole No. 4921, was attributed to debris in the sewer line creating a blockage. City crews were reportedly unable to recover any of the overflow. The entire 11,250 gallons entered a storm drain that empties to Escondido Creek, a tributary San Elijo Lagoon, which drains to the Pacific Ocean. Signs warning of sewage-contaminated water were posted for 7 days.

Olivenhain Municipal Water District

NOV No R9-2005-0099

The Olivenhain Municipal Water District (OMWD) notified this office on February 22, 2005 of a sanitary sewer overflow (SSO) of approximately 900 gallons that occurred on February 21, 2005 at 10605 Rancho Bernardo Road. The cause of spill was attributed to a power failure that caused a pump station failure. Crews were reportedly unable to recover any of the overflow. The report noted that approximately 900 gallons entered a storm drain culvert that drains to the San Dieguito River, a tributary to the Pacific Ocean. The County of San Diego Department of Environmental Health was notified of the spill but did not require posting of any signs warning of sewage-contaminated water.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in March 2005 (Stacey Baczowski) (Attachment B-2)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States,

must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a Section 404 permit from the Army Corps of Engineers, for filling or armoring of creeks and streams. See attached table (B-2).

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

3. Grants Update (*Dave Gibson*) (*Attachment B-3*)

2003 Consolidated Grants Program Update

The Rainbow Creek TMDL Implementation Project grant agreement is still undergoing grantee (County of San Diego) review. The Regional Board is working with the grantee to further refine the project. The Rainbow Creek project was recommended for funding through the federal Clean Water Act section 319(h) Non-Point Source Pollution Reduction Grant Program (319(h) Grant Program) and includes the development of a Nutrient Reduction Management Plan through a stakeholder driven process to serve as the principle planning and guidance document for the Rainbow Creek watershed. This grant is the last Consolidated Grant in the region remaining to be finalized.

Status of Proposition 13 and 319(h) Grant Program Projects

Since 2001, approximately 432 projects throughout the state have been funded through Proposition 13 and 50 and the federal 319(h) grant programs. The Regional Board currently manages 42 of these grant-funded projects worth approximately 58 million dollars. The status of these projects is summarized in Attachment B-3, #1. The Regional Board and State Water Resources Control Board (SWRCB) are preparing to close out 6 of the Proposition 13 Phase I projects in March 2005. In addition, the Regional Board and the SWRCB are continuing to work with several Proposition 13 grantees who are now in breach of contract or whose projects are considerably behind schedule. The Regional Board will work with these grantees to return them to schedule, but in consultation with the SWRCB, it may recommend termination of the contracts if the grantee does not make satisfactory progress on the project. Among the projects that may be terminated is the USDA *Caulerpa taxifolia* Eradication Project, which has fallen behind a previously extended schedule and has not submitted adequate progress reports and other deliverables.

Agricultural Water Quality Grant Program (AWQGP)

The SWRCB adopted an initial recommended project list (RPL) of Prop 40 and 50 projects at its March 16 meeting. The SWRCB will consider amending the RPL to include CWA Section 319 projects at its Workshop on April 6, 2005. Applicants whose projects need modifications had until March 18 to address comments from the Selection Panel. One applicant from San Diego submitted a modified proposal. The Regional Board and other technical reviewers will evaluate the modified proposal for responsiveness to the Selection Panel comments and request for information and

competitiveness within the program. The Selection Panel will meet again April 15, 2005 to consider resubmitted proposals.

Proposition 50 Integrated Regional Water Management (IRWM) Grant Program

The final version of the Planning and Implementation Grants, Step 1 Proposal Solicitation Packages (PSPs) was released on March 18, 2005 on the SWRCB and Department of Water Resources (DWR) websites. On March 22, 2005, at 10 a.m., the first applicant assistance workshop (including a web broadcast at <http://www.calepa.ca.gov/broadcast>) was held at the Cal/EPA building (Costal Hearing Room). Other planned applicant workshop dates and locations are: March 30th (San Luis Obispo); April 4th (Riverside); and April 7th (Oakland). An additional workshop was requested by the San Diego Regional Board and will be held on April 15th in the Regional Board Meeting Room at 10:00am.

The submittal deadline for IRWM Planning grant proposals is May 12, 2005. Step 1 IRWM Implementation grant proposals will be due July 14, 2005. A Review Panel including the SWRCB, Regional Boards, DWR, California Coastal Commission, and California Department of Fish and Game will convene to review and rank the proposals for funding recommendation to the Selection Panel.

Water Recycling Funding Program (WRFP)

The WRFP, funded primarily by Proposition 50, will provide approximately \$42M statewide in this current funding cycle for the planning, design, and construction of water recycling projects. The Water Recycling Competitive Projects List (CPL) was adopted at the SWRCB meeting on January 20, 2005. The SWRCB has received approximately \$145 million of funding requests to date and has reviewed construction grant applications for completeness. The SWRCB has prepared a ranked listing of Category I Projects (Attachment B-3, #2) that includes several proposed projects in San Diego. The ranked funding list will be presented to the SWRCB at the April 6th workshop and considered for adoption at the April 21, 2005 meeting. A full review of the 25 complete applications is under way.

Clean Beaches Initiative (CBI) Grant Program

The SWRCB sent out a draft competitive location list by email to coastal Regional Boards and County Environmental Health Directors in January 2005 intended to target specific beaches that are known to have persistent bacterial water quality problems. By targeting beaches with chronic postings, the remaining funds from the CBI grant program will be used for projects that reduce bacteria at the most critically impaired beaches. The SWRCB will consider the final recommended location list for the second phase of Prop 40 funding on April 6, 2005. Four regional workshops for potential applicants have been scheduled during the month of April. All applicant workshops are scheduled from 9 AM to noon. The locations are:

May 3 - San Diego Regional Board
Office
9174 Sky Park Court, Suite 100

San Diego, CA 92123-4340

April 20 - Burton Chace Park
Community Room
13650 Mindanao Way
Marina Del Rey, CA 90292
April 26 - San Mateo Medical Center
222 39th Ave, San Mateo, CA

Education Conference Room #1

April 28 - Southern California Coastal
Water Research Project
7171 Fenwick Lane
Westminster, CA 92683

Dairy Water Quality Grants Program (DGP)

The draft program guidelines for implementation of the \$5 million Prop 50 Dairy Water Quality Grant Program were posted on the Water Board's website for public comment on March 16, 2005. Two Public Stakeholder Workshops to discuss the draft guidelines are scheduled for April 8, 2005 and April 11, 2005 in Sacramento and Riverside, respectively. The comment period will close on April 15, 2005. More information on the DGP can be found at: <http://www.waterboards.ca.gov/funding/dairy.html>

4. San Diego Municipal Storm Water Permit (Phil Hammer)

The California Supreme Court recently rejected a request by the Building Industry Association and other parties to review a lower court decision which upheld the requirements of the San Diego Municipal Storm Water Permit (Permit). The Building Industry Association filed the suit, first in the Superior Court and then in the Court of Appeal, challenging various requirements of the Permit, including the requirement that storm water discharges comply with receiving water quality standards. Both lower courts rejected the Building Industry Association's claims, and the California Supreme Court let the rulings stand.

5. Status of Remedial Activities on Murrieta Creek Phase I Channel Construction Project (Bob Morris)

In January 2005, the U.S. Army Corps of Engineers and Riverside County Flood Control and Water Conservation District completed reconstruction of the lower portion of Murrieta Creek in Temecula, California. This project was Phase I of a proposed four-phase project to increase the flood protection capacity of the channel. As part of the project, the Corps and District were required pursuant to the General Construction Storm Water Permit Requirements (Order No. 99-08-DWQ) and the Section 401 Water Quality Certification (project no. 03C-046) to implement temporary and final erosion control best management practices (BMPs) to minimize the amount of sediment discharged to the creek during storm events. The Corps and District, however, failed to provide adequate incentive and direction to the contractor during the construction to achieve compliance with this requirement.

The SDRWQCB first notified the Corps that the site lacked adequate BMPs during a site inspection in the spring of 2004. Subsequently in October and November 2004, the Corps was notified that the project site continued to lack adequate erosion and sediment control BMPs. In November 2004, after finding the site still lacking adequate erosion control, the SDRWQCB issued the Corps and the District a written Notice of Violation. Although some steps were then taken, the measures were too late and too minimal to be effective. On January 10, 2005 after failure of the erosion control measures, the

Executive Officer issued Cleanup and Abatement Order No. R9-2005-0018 (CAO) to the Corps and the District to correct the problem by January 21, 2005. The deadline was subsequently extended to February 21, 2005.

On February 4, 2005, the SDRWQCB met with representatives of the Corps, the District and the Directors for local congressional districts. At this meeting, the Corps agreed to provide a plan and time schedule to remediate the site as was required by the CAO. As part of the remediation, the Corps must repair the eroded slopes and stabilize the slopes with enhanced BMPs and must restore a mitigation area, which was required by the SDRWQCB as a condition for issuing the 401 water quality certification for the project.

At the following meeting on March 4, 2005, the Corps reported that there was no funding to take corrective action at this time and that they are attempting to find emergency funding. To date they have not reported that they have been successful in obtaining this funding and the site continues to lack adequate erosion control.

6. Clean Closure SERE Camp Landfill (Amy Grove and John Odermatt)

The U.S. Navy Survival, Evasion, Resistance and Escape (SERE) Camp is located in the northeastern part of San Diego County, within the Cleveland National Forest. The site encompasses approximately 60 acres and is used for survival, evasion, resistance, and escape training by the U. S. Navy. The SERE Camp Landfill occupies approximately 6,000 square feet of the site. The landfill operated between 1978 and 1982, and is currently regulated under waste discharge requirements (WDR) Order No. 97-11, and addenda thereto.

The SERE Camp Landfill is currently undergoing clean closure in accordance with the requirements outlined in the California Code of Regulations (CCR) Title 27. In March 2004, the U.S. Navy provided the Regional Board with a Closure work plan estimating that approximately 6,000 cubic yards of soil and landfill debris would be removed during excavation work. The Navy reports that 2,672 tons of wastes have been removed from the landfill area. Ten confirmatory soil samples have been collected from the excavation area, and another 15 samples are to be collected once the final delineation of the landfill boundaries is complete, and the discharger determines all of the waste and contaminated soil have been removed. The projected date of completion for clean closure activities is May 16, 2005.

7. Request to Rescind Cleanup and Abatement Order (CAO) No. R9-1999-0211 - J03P02 Storm Drain (Jeremy Haas)

On February 1, 2005, the County of Orange, Orange County Flood Control District, and City of Laguna Niguel (Co-permittees) requested the rescission of Cleanup and Abatement Order No. R9-1999-0211 (CAO). On March 22, 2005 the Executive Officer informed known interested persons that written comments on the rescission request would be accepted until April 22, 2005, after which time, the Executive Officer would take action on the request pursuant to California Water Code section 13223. The CAO was issued in December 1999 for discharges of waste with high fecal coliform bacteria from municipal storm drain outfall "J03P02" into Sulphur Creek, a tributary to Aliso

Creek. The CAO was issued following an Aliso Creek Section 205(j) Water Quality Planning study that identified elevated bacteria levels at the J03P02 stormdrain outfall.

The CAO had required the Co-permittees to develop a work plan with a time schedule to cleanup the wastes discharged from the J03P02 storm drain, abate the effects of the discharged waste, implement a weekly monitoring program, and to submit quarterly progress reports. In response, the Co-Permittees implemented a number of pollution prevention, source identification, and treatment management measures. Most of the low-flow water from the J03P02 watershed is now treated by constructed wetlands that consistently reduce the bacteria levels to the Rec-1 contact recreation objective. Nonetheless, discharges from the J03P02 outfall have not consistently met Rec-1 standards. Bacteria concentrations increase between the treatment area and the outfall to Sulphur Creek. The discharge from J03P02 now generally follows a seasonal pattern in which the non-contact recreation (Rec-2) objective is achieved only from November through March.

If the CAO is rescinded, the Co-permittees will remain responsible for implementing effective management measures to reduce bacteria in urban runoff in accordance with the Jurisdictional and Watershed Urban Runoff Management Programs of Order No. R9-2002-001 (NPDES No. CAS0108740). Requirements for monitoring discharges from the outfall and in adjacent receiving waters, however, would be substantially reduced and possibly eliminated if the CAO is rescinded.

The reduction in the level of monitoring is sought by the Co-Permittees because they propose to direct subsequent monitoring toward prioritized water quality problems. Based on three years of weekly bacteria monitoring collected throughout the Aliso Creek watershed by all the MS4 Co-Permittees, the Co-Permittees have identified other storm drains and receiving waters as higher priority problem areas. Monitoring would continue in the summer months at the confluence of Sulphur Creek and Aliso Creek under a revised Watershed Urban Runoff Management Program.

The MS4 permit as a regulatory tool will be strengthened in the near future with anticipated enhancements in the Co-permittees' Watershed Urban Runoff Management Program and later with the adoption of the fourth-term MS4 permit incorporating the TMDL implementation plan for bacteria.

Copies of the CAO, the Co-permittees' letter requesting the rescission, and the notice regarding the written comment period are posted on our web site.

8. Critical Coastal Area Program (*Jeremy Haas*)

During the public forum at the March 9, 2005 Board meeting, Mr. Jack Eidt and Mr. Jerry Collamer asked the Regional Board for support in enrolling the San Mateo Creek watershed in the State's Critical Coastal Area Program. The Critical Coastal Area (CCA) Program is part of the Statewide Nonpoint Source Program, jointly administered by the State Water Resources Control Board and the California Coastal Commission. The CCA Program is intended to build upon local efforts underway in a watershed by focusing on

application of nonpoint source (NPS) management measures to address existing or potential NPS pollution impacts to coastal-zone watershed areas in critical need of protection from polluted runoff.

The CCA Program is currently working to identify four pilot CCA watersheds along the coast, where the CCA Program will form teams of local stakeholders to develop community-based Action Plans for addressing polluted runoff. The CCA program recently produced a short list of Priority CCAs for the pilots and held workshops in March 2005 to present this list and get public input on the selection of pilot CCAs. Priority CCAs under consideration in the San Diego Region for the pilot CCA project include:

- Newport Marine Life Refuge & Irvine Coast Marine Life Refuge
- Heisler Park Ecological Reserve
- San Elijo Lagoon
- Los Penasquitos Lagoon
- San Diego-La Jolla Ecological Reserve & San Diego Marine Life Refuge
- Tijuana River Estuary

Other CCAs in the San Diego Region that are not on the priority CCA list include Aliso Creek and San Juan Creek in Orange County and Batiquitos Lagoon in San Diego County.

San Mateo Creek does not meet the current criteria for being a CCA. Criteria include State Water Quality Protection Areas (SWQPAs, formerly Areas of Special Biological Significance, ASBSs) and Section 303(d) listed impaired waterbodies that are tributary to Marine Managed Areas. The Coastal Commission is seeking input on new criteria to use to identify new CCAs that would be applicable statewide. New criteria could include California Department of Fish and Game priorities, such as streams like San Mateo Creek that support rare species like Steelhead Trout.

Involvement in the CCA Program by the San Diego Regional Water Quality Control Board's nonpoint source program has been limited, but could increase if a pilot CCA is selected here. No grants administered by the Board are directly targeted at CCAs, but the Integrated Coastal Watershed Management (ICWM) Planning Grants Program funded by Proposition 50 is offering up to \$500,000 for coastal watershed planning efforts that include one or more Areas of Special Biological Significance.

Additional information about the Critical Coastal Area program is available at <http://www.coastal.ca.gov/nps/cca-nps.html>

9. Carmel Valley Trunk Sewer Complaint (*Stacey Baczkowski*)

At the March 9, 2005 Regional Board meeting, Mr. John Millar and Mr. Michael Pallamary informed the Board of several alleged violations associated with the construction of the Carmel Valley Trunk Sewer project (CVTS). The CVTS is a new sewer line currently under construction in McGonigle Canyon, a tributary to Los

Penasquitos Lagoon. The CVTS line occurs within an easement on property owned by Pardee and Western Pacific Housing. The City of San Diego hired a contractor to construct the sewer line on Pardee's property. The portion of the line that occurs on Pardee's property has been completed; the portion of the line that would proceed through an easement on the adjacent property owner's parcel has not yet started due to ongoing litigation.

Mr. Millar and Mr. Pallamary have alleged that the contractor building the CVTS line violated requirements in the construction storm water permit and section 401 water quality certification (WQC), and sprayed pesticide-contaminated groundwater on adjacent vegetation that killed the vegetation. The Regional Board met with Mr. Millar and Mr. Pallamary on March 28, 2005 to obtain more details regarding their allegations. Photographs that were provided to the Regional Board at the March 9 Board meeting were returned to Mr. Millar and Mr. Pallamary to allow them to provide information on the date, location, and subject for each photograph. Mr. Millar and Mr. Pallamary were unable to provide information to support their allegation that water that was discharged from dewatering operations was contaminated; no samples were collected or analyzed for pesticides. A single sample was collected in a thermos and analyzed for salinity; results were not provided.

The Regional Board also conducted a site inspection on April 1, 2005, to document existing site conditions and compliance with the section 401 WQC and construction storm water permit. The CVTS project complied with the 401 WQC within the area in question; designated impact and avoidance areas were properly observed. The site was also found to be in compliance with the construction storm water permit requirements. Because the site did not discharge more than 100,000 gallons of water per day from dewatering activities, the site is not subject to the dewatering permit. The contractor, however, did collect water samples and had them analyzed in accordance with the dewatering permit; results on these tests will be provided to the Regional Board. The City of San Diego has also been asked to provide their inspection reports for the CVTS.

The Regional Board will review the City's inspection reports and the contractor's sample results to determine if water quality was impacted during construction of this portion of the CVTS project. Unless new evidence of violations is found in these documents, the Regional Board anticipates no further actions for this site.

10. Update of the Chollas Creek Total Maximum Daily Load for Metals (Jimmy Smith)
The technical report describing the Chollas Creek Total Maximum Daily Loads (TMDLs) for copper, lead, and zinc was released for public review on March 28, 2005. The report contains the technical basis establishing the TMDLs and discusses the issues involved with implementation scenarios. Peer review comments and responses are contained as appendices. The report also contains the draft Basin Plan amendment language and tentative resolution adopting the amendment. The report contains all elements required by the Clean Water Act for impaired waters on the Section 303(d) List of Water Quality Limited Segments and by the California Water Code to establish an implementation action plan.

The TMDLs set forth California Toxics Rule (CTR) water quality objectives (WQOs) for copper, lead, and zinc as the maximum allowable concentrations of metals in Chollas Creek. Since the toxicity of metals is largely dependent upon the hardness of the water, the WQOs are expressed as formulas. Therefore, the CTR metals WQOs are calculated by first measuring ambient hardness and then using the formulas to determine the allowable concentrations of metals. This creates a time- and location-specific WQO. Note that this TMDL is concentration-based rather than load-based. The TMDL sets the numeric targets for and loading capacity of Chollas Creek equal to the hardness based CTR WQOs for the three metals. To account for any uncertainties, a 10 percent margin of safety has been applied to the WQOs, or loading capacities, to establish the wasteload allocations (WLA) for the three metals. These WLAs were assigned to all point source discharges of metals to Chollas Creek. These consist of discharges to Chollas Creek from the municipal separate storm sewer systems owned and operated by the Cities of San Diego, Lemon Grove, and La Mesa, the County of San Diego, the San Diego Unified Port District, the U.S. Navy, and the California Department of Transportation. In addition, point source discharges into the MS4s were assigned the WLA. These include discharges from industrial sites, and discharges of extracted groundwater. A compliance schedule for these discharges is set forth in the implementation action plan of the technical report. The schedule gives 7 years for point source discharges to meet the WLAs. It is expected that compliance with this schedule will be determined by measuring metal concentrations in the creek itself and comparing them against the appropriate WQOs.

A public workshop to discuss the TMDLs and implementation plan will be held on April 28, 2005 at 9 a.m. in the Regional Board Hearing Room. Tentative Resolution R9-2005-0111 adopting the amendment to the Basin Plan to incorporate these TMDLs is scheduled for a public hearing at the Regional Board Meeting on May 11, 2005. Public comments are currently being accepted. The public is invited to testify at the May 11 hearing.

11. Update on the NASSCO and Southwest Marine Shipyard Tentative Cleanup and Abatement Order *(Tom Alo and Craig Carlisle)*

The Tentative Cleanup and Abatement Order (CAO) for the San Diego Bay sediments within and adjacent to the National Steel and Shipbuilding Company (NASSCO) and Southwest Marine, Inc. (Southwest Marine) leaseholds is scheduled for release at the end of April. A 60-day public review period is planned to allow public review and comment. A Regional Board public workshop to present and discuss the tentative order will be scheduled for late May or early June, and an additional June Regional Board hearing to receive public testimony is scheduled for June 29.

The Tentative Cleanup and Abatement Order addresses the San Diego Bay Shoreline between Sampson and 28th Streets, which is listed on the 2002 Federal Clean Water Act (CWA) Section 303(d) List of Water Quality Limited Segments. The CWA Section 303(d) List identifies water bodies that are not meeting the appropriate water quality standards and the CWA national goals of "fishable and swimmable." The Tentative

Cleanup and Abatement Order is designed to meet the CWA requirement that the State take the actions needed to restore and protect bodies of water.

Background

Due to the elevated levels of pollutants present in the marine sediments within and adjacent to their leaseholds, NASSCO and Southwest Marine shipyards conducted a site-specific sediment quality assessment and cleanup feasibility study.

NASSCO and Southwest Marine completed their investigation and feasibility study, and submitted a technical report to the Regional Board on October 10, 2003. The data in technical report is being used as a basis for the Regional Board's development of a tentative CAO for the sediments.

The process of establishing cleanup levels is extremely controversial with environmental organizations pushing for stringent cleanup levels and responsible parties trying to keep the costs of cleanup or remediation as low as possible. The Regional Board has made extensive outreach efforts to these organizations through workshops and public meetings to involve them in all aspects of the conduct of the sediment study and the decision making process to develop sediment cleanup levels.

Stakeholder Involvement

The NASSCO and Southwest Marine Shipyard project to date has held three day-long public workshops, seven day-long public meetings, and provided three extensive written response to comments documents to involve stakeholders. At these meetings and workshops, experts representing both the shipyards and a diverse collection of other stakeholders (Audubon Society, Sierra Club, Environmental Health Coalition, San Diego Bay Keeper, Surfrider Foundation, CA Department of Fish and Game, US Fish and Wildlife Service, National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, Port of San Diego, City of San Diego, and the US Navy) have attended to provide input into the difficult task of establishing sediment cleanup levels for a complex marine environment.

Pollutants and Cleanup Levels

Pollutants typically found in marine sediments include metals (such as arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc), butyltin species, polychlorinated biphenyls (PCBs), polychlorinated triphenyls (PCTs), polynuclear aromatic hydrocarbons (PAHs), and total petroleum hydrocarbons (TPH). There are currently no San Diego Bay-wide cleanup standards for these constituents. Cleanup levels established by the Regional Board for these constituents at other sites vary due to a host of technical considerations related to sediment chemistry levels found at the site; sediment and chemical characteristics; and risks to aquatic life, aquatic-dependent wildlife, and human health.

12. Lake Cuyamaca Subsurface Disposal System Status Report (Brian Kelley)
(Attachment B-12)

On October 31, 2001, the Lake Cuyamaca Recreation and Park District (hereinafter District) submitted an incomplete Report of Waste Discharge (RWD) prepared by Kennedy/Jenks Consultants for a proposed septic tank with a subsurface disposal leach field infiltration system located northwest of the intersection of Highway 79 and Sunrise Highway (Route S-1). Over the next three years, the Regional Board spent numerous hours working with the District and its consultant to obtain additional documentation to complete the RWD, including evidence of compliance with the California Environmental Quality Act (CEQA). The Regional Board also expended many hours in preparing tentative waste discharge requirements and responding to numerous concerns by other interested parties.

On June 10, 2004, the Regional Board adopted waste discharge requirements (WDRs) for the proposed subsurface discharge. Since that time, the Regional Board spent additional resources inspecting the site and coordinating with the discharger to install groundwater monitoring wells. Recently, the Regional Board met with the District's consultant to review the results of the well sampling. Based on this review, the Regional Board determined that the District, upon initiation of the discharge to the disposal system, would immediately be in violation of the discharge specifications contained in the WDRs for certain constituents. As a result, to date, the Regional Board has not approved initiation of the discharge to the newly constructed subsurface disposal system. Installation of the facilities was completed on October 18, 2004.

A discussion of the options available to the Regional Board as well as recommendations for future action regarding the proposed discharge are contained in a memo dated April 1, 2005 entitled "Cuyamaca Parks & Recreation Dept. – Status of Discharge and Proposed Action" (Attachment B-12). The Regional Board plans on implementing the recommended action in the near future.

13. Quarterly Enforcement Report January – March 2005 (Mark Alpert) (Attachment B-13)

In accordance with the State Water Resource Control Board's Enforcement Policy, the Regional Board has prepared a quarterly report, a detailed listing of all the violations and the enforcement actions initiated during the reporting period January – March 2005. Enforcement starts with Regional Board staff recognizing violations, which are discovered through detailed reviews of discharger monitoring reports; field inspections of regulated facilities; in response to complaints or referrals from other agencies; discharger notification of spills and leaks (sewage spills are discussed under a separate heading); and discharger failure to submit timely monitoring reports or payment of annual fees associated with WDR/NPDES permits. All discharger compliance information is then recorded in the SWIM (System for Water Information Management) Compliance Module, a database maintained by the State Water Resources Control Board¹.

During the reporting period the Regional Board determined that 52 dischargers caused 169 violations. The quarterly Violation report (Attachment B-13a), consisting of 52-pages, was prepared using data from the SWIM database. The report includes: a) the date of violation; b) the RWQCB response and date, if any; and c) the corrective action taken

by the discharger. During the reporting period the Regional Board initiated 123 enforcement actions against 79 dischargers. These actions were in response to violations occurring during or prior to the reporting period. The Enforcement report (Attachment B-13b), consisting of 22-pages, provides information about the enforcement actions and the violations they are based on. A legend used to describe the acronyms used in the reports is attached (B-13c).

The reports can be viewed on the Regional Board's Internet web page at <http://www.waterboards.ca.gov/sandiego/index.html>.

The following table summarizes the type and number of enforcement actions, listed from informal to formal, initiated during the reporting period with the number of violations.

Progressive Enforcement ↓	Enforcement Action	Symbol	Number	No. of Violations
	Staff Enforcement Letter/Verbal	SEL	23	70
	Notice of Violations	NOV	56	140
	Notice to Comply	NTC	0	0
	13267 Order/letter	LTR	27	50
	Cleanup and Abatement Order	CAO	10	29
	Settlement	SET	1	323
	Administrative Civil liability Complaint w/Mandatory Minimum Penalties	ACP /MPC	6	47
	Administrative Civil liability Orders w/Mandatory Minimum Penalties	ACL/ MPO	0	0
	Total Enforcement Actions		123	659

¹ Enforcement information for the Underground Tanks, Department of Defense, and Spills, Leaks, Investigations, and Cleanup (SLIC) programs are not routinely stored in SWIM. Instead these programs use a database referred to as Geotracker, which is also maintained by the State Board. While SWIM was intended to be the primary database for this agency, Geotracker has emerged as the preferred database for some programs. More information on Geotracker is provided on the State Board web site at <http://geotracker.swrcb.ca.gov>.

14. EHC Survey on Fishing in San Diego Bay (Peter Michael) (Attachment B-14)

Summary

The Environmental Health Coalition has raised an environmental justice issue: Latino and Filipino communities consume large amounts of contaminated fish caught in San Diego Bay and health problems are probably caused by eating those fish. The Regional Board is encouraged to apply the precautionary principle by ranking threats to human health over economic expenditures when considering sediment cleanup levels at

shipyards. Because this would be a long-term approach, a short-term approach could also be to assist organizations in seeking funding for education programs to reduce the amount of industrial chemicals consumed.

The Environmental Health Coalition (EHC) of San Diego publishes the *Toxinformer*, a newsletter presented in both English and Spanish. The February 2005 edition addressed an environmental justice question: Are low-income communities of people of color being exposed to health hazards? See attached article B-14a, *Fishers and their families at risk from polluted fish: Join EHC as we ask the Regional Board to clean up San Diego Bay*. The topic was exposure to toxic chemicals in fish tissues by subsistence fishing from public piers. Latinos and Filipinos were identified as being at greatest risk because of the quantities of San Diego Bay fish caught and parts of the fish cooked and eaten. For example, a meal of stewed fish cooked with the skin intact could contain more contaminants than eating broiled fish fillets. At a fish consumption level of 165 grams per day, human health effects could be caused by eating fish taken from the Bay, according to EHC.

The article pointed out that many of the people who fish at three public piers at (1) Chula Vista, (2) National City Pepper Park/Sweetwater Channel, and the (3) Pier at the Fifth Avenue Marina/Convention Center in downtown San Diego may consume more fish and use preparation methods that lead to greater exposure to toxic chemicals. See attached article B-14b, *Survey of Fishers on Piers in San Diego Bay*.

The article was released to address the San Diego Regional Board's March workshop and upcoming June 29, 2005 public hearing to consider cleanup and abatement orders for the National Steel and Shipbuilding Company, Southwest Marine shipyard, and other responsible parties for cleanup of contaminated San Diego Bay sediments. EHC concludes that sediments containing PCBs, lead, mercury, and arsenic act as sources of contaminants entering the food chain leading to bioaccumulation in fish tissues. However, the article did not present original scientific evidence of a direct cause and effect relationship between the contaminant load in sediment at the shipyards and specific fish caught at the fishing piers and eaten by Latinos and Filipinos. Conclusions in the report of elevated levels of toxic chemicals in San Diego Bay fish appear to be derived from EHC's review of the 1990 County of San Diego health risk study and review of data from the National Steel and Shipbuilding (NASSCO) and Southwest Marine sediment study conducted in 2004.

Some of the fish caught at the piers migrate in the Bay and in the ocean. Therefore, a direct relationship between sediment chemistry concentrations at specific sites and the body burdens of these chemicals in fish caught at nearby locations could be difficult to establish with a high degree of statistical certainty.

Lack of statistical certainty does not support the notion, however, that cleanup of contaminated sediment would have no effect on body burdens of toxic chemicals in fish or shellfish. The San Diego Regional Board has required the shipyards to perform a

bioaccumulation study to help assess whether Bay water quality supports all the beneficial uses for the Bay listed in the Basin Plan.

There are more recent data on levels of contaminants in fish tissue in San Diego Bay. The Coastal Fish Contamination Program (CFCP) collected fish tissue data beginning in 1999. Two years of data demonstrate that sand bass, surfperch and turbot have concentrations of polychlorinated biphenyls (PCBs) that exceed the Office of Environmental Health Hazard Assessment (OEHHA) Screening Value, according to Dr. Bob Brodberg of OEHHA. Caution should be taken to remember that this limited data set does not necessarily indicate that the entire population of fish in San Diego Bay exceeds the OEHHA Screening Value. The State Water Resources Control Board is considering this data for the update to the Clean Water Act Section 303(d) List of Water Quality Limited Segments. The data from years three and four of CFCP are still undergoing quality control and have not yet been released to the public.

Sediments and waters in industrialized harbors may contain naturally occurring background levels of elements and compounds in addition to elevated levels added through discharges of wastes. The Environmental Health Coalition's article recommends the Regional Board and other organizations *"...(2) Establish protective clean up levels for remediation of toxic sediments in San Diego Bay and protective sediment quality objectives for the State; (3) Revise the Fish Consumption Warning for San Diego Bay based on higher consumption levels."*

The California Office of Environmental Health Hazard Assessment is the lead state agency responsible for performing health risk assessments and issuing fish consumption advisories. Currently, OEHHA does not have enough data from the limited number of samples in the first two years of the CFCP to issue health advisories for consumption of San Diego Bay fish, according to Dr. Bob Brodberg. Intensive sampling of San Diego Bay fish was done in subsequent years of the CFCP so that adequate data for a variety of fish would be available for risk assessment and to develop consumption advice, if appropriate.

The State Water Resources Control Board (State Board) Division of Water Quality is currently establishing sediment objectives. Although the State Board in the 1990s was mandated to complete this task under the Bay Protection and Cleanup Program, adequate funding could not be secured for this project. Interest by environmental organizations has led to the renewal of this State Board program.

The overall issue of environmental justice highlights a fundamental contrast between approaches taken by a non-governmental organization addressing environmental justice problems resulting from water quality, and of a government health agency implementing laws, regulations, and guidelines and using the tools of science and statistics. EHC believes the Regional Board should apply the precautionary principle and act on existing information, but OEHHA is not confident in drawing conclusions about health risk based on few fish samples. The precautionary principle, as defined by USEPA means: *"When information about potential risks is incomplete, basing decisions about the best ways to*

manage or reduce risks on a preference for avoiding unnecessary health risks instead of on unnecessary economic expenditures.”¹

The Regional Board in setting sediment cleanup levels, however, needs to be confident in the data and the conclusions drawn from review of that data. This related environmental justice issue probably cannot be solved completely and swiftly by the Regional Board by setting shipyard cleanup levels: How will the health of Latino and Filipino communities be protected from the effects of consuming chemicals in fish taken from the Bay?

OEHHA's main role has been to release scientifically supported health advisories to warn consumers of the hazards of eating fish with elevated levels of chemicals. EHC recommends OEHHA and the Department of Toxic Substances Control expand this role and conduct public education programs to reduce the risk of communities eating fish with elevated levels of chemicals.

At the June 29, 2005 Regional Board meeting, the Board will consider the available information presented by the Environmental Health Coalition during deliberations on the shipyard cleanup and abatement orders on August 10. For a summary article of the report, see: <http://www.environmentalhealth.org/FEB05engWEB.pdf>

The Regional Board could consider longer-term actions by recommending that adequate funding be provided to determine threats to human health caused by elevated levels of chemicals in fish tissues. The former Coastal Fish Contamination Program has since been incorporated into the Surface Water Ambient Monitoring Program (SWAMP) of the State Water Resources Control Board. The Regional Board's representative to the SWAMP program is aware of the concern expressed by the Environmental Health Coalition.

In a related monitoring program, the Regional Board, in conjunction with the Port of San Diego, City of San Diego, City of Oceanside, and Orange County, is involved with planning for the Regional Harbor Monitoring Program, a comprehensive and coordinated long-term marine monitoring program. One of the elements being considered is fish tissue sampling to address the Clean Water Act goal of assuring surface waters are “fishable.” The current plan is to participate in the Bight'08 marine regional monitoring program for the Southern California Bight in 2008, a large status and trends program addressing waters from Point Conception to Baja California. The program is administered by the Southern California Coastal Water Research Project (SCCWRP) with participation by approximately 60 organizations. The Bight'08 fish sampling effort should provide greater numbers of fish from more stations in San Diego Bay than could be sampled and analyzed independently. This would be a longer term program adhering closely to scientific and statistical norms and providing a high degree of confidence in the conclusions about the health risk of consuming fish caught in the Bay.

¹ U.S. Environmental Protection Agency Office of Communications, Education, and Public Affairs. Terms of Environment. 2005 <http://www.epa.gov/OCEPAterms/pterm.html>

In the shorter term, non-governmental organizations should not become discouraged in participating in projects to educate communities at risk from consuming fish believed to be contaminated. Attaining high scientific confidence of fish contamination through additional sampling and high-quality laboratory analysis of fish tissues may have to wait for the results of additional investigations by qualified scientists to provide "proof" based on "good science" of this environmental justice issue.

The San Diego Regional Board should consider the conclusions of the Environmental Health Coalition related to sediment cleanup. Public education projects in the short term related to health risk, however, may be better carried out by health agencies and non-governmental organizations. Because of the link between sediment contamination and human health issues, the Regional Board could assist by providing San Diego Bay sediment contamination results to state and local health and planning agencies, and by encouraging funding for education projects related to water quality and human health.

PART C
STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

There are no items to report in Part C this month.